



STATE OF MICHIGAN  
DEPARTMENT OF STATE POLICE  
LANSING

GRETCHEN WHITMER  
GOVERNOR

COL. JOSEPH M. GASPER  
DIRECTOR

October 29, 2019

ROBERT POTOCKI  
MUCKROCK NEWS  
DEPT MR 81176  
411A HIGHLAND AVE  
SOMERVILLE, MA 02144-2516

Subject: CR-20087298; CHRYSLER, RICHARD

Dear ROBERT POTOCKI:

The Michigan State Police (MSP) has received your request for public records and has processed it under the provisions of the Michigan Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

Your request has been:

☐ Granted.

☒ Granted in part and denied in part. Portions of your request are exempt from disclosure based on provisions set forth in the FOIA. (See comments on the back of this letter.) Under the FOIA, Section 10 (a copy of which is enclosed), you have the right to appeal to the head of this public body or to a judicial review of the denial.

☐ Denied. (See comments on the back of this letter.) Under the FOIA, Section 10 (a copy of which is enclosed), you have the right to appeal to the head of this public body or to a judicial review of the denial.

☒ The documents you requested are enclosed. Please pay the amount of \$-.-. Under the FOIA, Section 10a (a copy of which is enclosed), you have the right to appeal the fee to the head of this public body.

☐ Please pay the amount of \$-.-. Once payment is received the documents will be mailed to you. Under the FOIA, Section 10a (a copy of which is enclosed), you have the right to appeal the fee to the head of this public body.

You may pay the amount due online at <http://mistatepolicepmts.state.mi.us/crsearch> using a credit card or check. You will need to provide your name or reference number listed above. Please note, there is a \$2.00 processing fee for using this service.

If you prefer, you can submit a check or money order made payable to the STATE OF MICHIGAN and mail to P.O. Box 30266, Lansing, MI 48909. To ensure proper credit, please enclose a copy of this letter with your payment.

The MSP's FOIA procedures and guidelines can be accessed at [www.michigan.gov/msp](http://www.michigan.gov/msp).

Sincerely,

  
LANCE GACKSTETTER  
Records Resource Section

**DENIAL OF RECORDS:**

Denial is based on the following provision(s) of the Freedom of Information Act. MCL 15.243, Sec. 13(1). (All that apply are checked)

- ☒ (a) Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
- |   |   |   |
|---|---|---|
| <input type="checkbox"/> name(s)                  | <input type="checkbox"/> telephone number(s)      | <input checked="" type="checkbox"/> address(es) |
| <input type="checkbox"/> physical characteristics | <input type="checkbox"/> driver license number(s) | <input type="checkbox"/> date(s) of birth       |
| <input type="checkbox"/> other: _____             |   |   |
- ☐ (b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure would do any of the following:
- ☐ (i) Interfere with law enforcement proceedings.
  - ☐ (ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.
  - ☐ (iii) Constitute an unwarranted invasion of personal privacy.
  - ☐ (iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.
  - ☐ (v) Disclose law enforcement investigative techniques or procedures.
  - ☐ (vi) Endanger the life or physical safety of law enforcement personnel.
- ☐ (d) Records or information specifically described and exempted from disclosure by statute:
- ☐ MCL 780.758 William Van Regenmorter Crime Victim's Rights Act
  - ☐ MCL 722.625 Child Protection Law (reporting person)
  - ☐ MCL 722.627 Child Protection Law
  - ☐ MCL 600.2163a Revised Judicature Act of 1961
  - ☐ MCL 28.214 C.J.I.S. Policy Council Act (LEIN information)
  - ☐ Statute: \_\_\_\_\_
- ☐ (g) Information or records subject to the attorney-client privilege.
- ☐ (l) Medical: \_\_\_\_\_
- ☐ (m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action.
- ☐ (s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:
- ☐ (i) Identify or provide a means of identifying an informant.
  - ☐ (ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.
  - ☐ (v) Disclose operation instructions for law enforcement officers or agents.
  - ☐ (vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents or those who furnish information to law enforcement departments or agencies.
  - ☐ (viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.
  - ☐ (ix) Disclose personnel records of law enforcement agencies.
- ☐ (w) Information or records that would disclose the social security number of any individual.
- ☐ (z) Information that if disclosed could result in an individual becoming a victim of a cyber incident or disclosing cybersecurity plans or practices.
- ☐ To the best of the department's knowledge, information, and belief, under the information provided by you or by any other description reasonably known to the department, the public records do not exist within the department. Please see additional comments below.
- ☐ Based on the information you provided, we are unable to locate any records pertaining to the incident you described. Please resubmit a request with additional information. Please see additional comments below.
- ☐ The report you have requested has not yet been completed and filed. Please resubmit your request in 30 days.

**Additional comments:**

# MICHIGAN STATE POLICE (MSP) FREEDOM OF INFORMATION ACT FEE CALCULATION FORM

File Number: CR-20087298

Requestor Name: ROBERT POTOCKI

## Actual Costs

Labor (Search, Locate, Examine)*	Hourly Rate	Hours	Total
Labor (Separate/Delete)*	Hourly Rate	Hours	Total
Labor (Contractor)**	Hourly Rate	Hours	Total
Nonpaper Physical Media	Unit Cost	Units	Total
Paper Copies	Unit Cost	Units	Total
DOUBLE SIDED PAPER COPIES	\$ 0.05 / un	5	\$ 0.25
Labor (Duplication)*	Per Minute Rate	Minutes	Total
Indigent Waiver***			Total
Other Fees	Unit Cost	Units	Total
Mailing	Cost		Total
MAILING	\$ 0.98	1	\$ 0.98
Total:			\$ 1.23
Applied Payments:			\$ 0.00
Applied Adjustments:			\$ (1.23)
<b>Total Balance Due:</b>			<b>\$ 0.00.</b>

Part or all of the documents requested are available online at:

Cost to provide the online documents in paper form is \$\_\_\_\_\_. If you prefer to have these documents mailed, please forward payment and a copy of this form to the MSP for processing. This will result in a new request.

\*Cost includes hourly wage and an additional 50% to partially cover the cost of fringe benefits.

\*\*Actual cost does not exceed 6x the state minimum hourly wage.

\*\*\*Must provide proof of indigence.



**MICHIGAN DEPARTMENT OF  
STATE POLICE**

ORIGINAL INCIDENT REPORT

ORIGINAL DATE:  
Wed, Jul 09, 2003INCIDENT NO:  
004-0000501-03TIME RECEIVED:  
0950FILE CLASS:  
95006WORK UNIT  
MSP FIRE MARSHAL LANSINGCOUNTY  
LivingstonCOMPLAINANT  
BRIGHTON FIRE DEPT

TELEPHONE NO.

ADDRESS: STREET AND NO.

CITY  
BRIGHTONSTATE  
MIZIP CODE  
-INCIDENT STATUS  
Closed**HOUSE FIRE****INFORMATION:**

The Brighton Fire Department contacted our office in reference to a structure fire at the below venue. I made arrangements to meet at the scene with fire officials on the day of the fire. The following investigation was conducted over a several day period after the fire was suppressed. I was assisted at the scene by Sgt. CHAD CONEY and Sgt. JOHN BYRNE.

**VENUE:**

LIVINGSTON COUNTY , BRIGHTON TWP

**DATE & TIME:**

TUE, JUL 08, 2003 AT 0530

**COMPLAINANT:**

NAM: BRIGHTON FIRE DEPT

NBR: DIR:

STR:

SFX:

CTY: BRIGHTON

TXH:

TXW:

ST: MI

ZIP:

RAC:

SEX:

DOB:

HGT:

WGT:

HAI:

EYE:

ETH:

OPS:

SSN:

SID:

FBI:

MNU:

PRN:

**FIRE DEPARTMENT:**

The Brighton Fire Department was dispatched at approximately 5:30a.m. to a fully involved structure fire at the below venue. I spoke with several firefighters. Inspector KING advised that he was informed that heavy fire was venting through the roof upon the fire department's arrival. The fire was able to spread throughout the interior of the home and the home did suffer complete roof collapse as a result of the fire.

PAGE:

1 of 5

INVESTIGATED BY:

HOOKER, JACK, , 221, S/SGT

INVESTIGATED BY:

REVIEWED BY:

PRINTED: 10/9/2019 08:12

**MICHIGAN DEPARTMENT OF  
STATE POLICE**

ORIGINAL INCIDENT REPORT

ORIGINAL DATE: Wed, Jul 09, 2003	INCIDENT NO: 004-0000501-03
TIME RECEIVED: 0950	FILE CLASS: 95006

I spoke with Firefighter KIM MCEVOY. She advised that she lives at \_\_\_\_\_ which is in close proximity to the venue of this fire. She advised that she woke to her alarm clock at approximately 5:15a.m. and smelled smoke in the area at that time. She noted that smoke was heavy and smelled as if there was a structure fire within the area. She advised shortly after that her departmental pager was activated at which time she could see the glow of the fire over the trees in the area of the CHRYSLER home. She could also hear, what sounded to be like, a large fire coming from that area.

**PROPERTY DESCRIPTION:**

The home is a three story structure approximately 10,000 square feet. There is a garage underneath the home. This would be the basement area however the basement is below grade and is a drive out/walk out basement in the rear of the building. The building also contains a pool located within the rear of the home. The main living portion of the home contains a formal living room, dining room, family room, kitchen, office, and the swimming pool. There are bedrooms and bathrooms located within the upper unit of the home however this level did collapse as a result of the fire.

**UTILITIES:**

The home is supplied with three phase overhead and underground electricity. An investigation into the electrical service was conducted by private investigators and representatives of Detroit Edison. It does appear that there was some type of known problem with the entering electricity prior to this fire however investigators could not determine whether the electricity could have been a direct cause of this fire.

**VICTIM:**

NAM: RICHARD ROBERT CHRYSLER

NBR:	DIR:	RAC:	ETH:
STR:		SEX:	OPS:
SFX:		DOB:	SSN:
CTY:	ST:	HGT:	SID:
TXH:	ZIP:	WGT:	FBI:
TXW:		HAI:	MNU:
		EYE:	PRN:

**INTERVIEW VICTIM:**

I spoke with Mr. CHRYSLER at the scene. He advised that he has been experiencing several electrical problems within the home. He advised that some electrical outlets would work and some light switches would also work periodically. He had notified Detroit Edison that he believed one of the phases of his electrical service was malfunctioning prior to this fire. He further stated that he had contacted an electrician in an attempt to solve the electrical problems within the home. He advised that on the Sunday prior to this

PAGE: 2 of 5	INVESTIGATED BY: HOOKER, JACK, , 221, S/SGT	INVESTIGATED BY:	REVIEWED BY:
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**MICHIGAN DEPARTMENT OF  
STATE POLICE**

**ORIGINAL INCIDENT REPORT**

<b>ORIGINAL DATE:</b> Wed, Jul 09, 2003	<b>INCIDENT NO:</b> 004-0000501-03
<b>TIME RECEIVED:</b> 0950	<b>FILE CLASS:</b> 95006

fire, he noted that one leg of the three phase electric had been out at approximately 1:00 or 2:00p.m. in the afternoon.

He advised that on Sunday he did smell something burning coming from the area of the swimming pool. He advised he did find a small fire in the area of one of the pool pumps located beneath the swimming pool. Further investigation by electrical engineers concluded that this fire in the pool pump was most probably caused due to the loss of one of the three phase electric legs however this fire was not able to spread and the fire department had not been identified. Mr. CHRYSLER further advised that his lights would frequently be very dim or extremely bright. He stated that the smoke alarms within the home would activate periodically with no signs of smoke or fire in the home. Mr. CHRYSLER advised that he did call Detroit Edison on Sunday and left a message. He again called on Monday in an attempt to make contact with representatives of the company.

On the night of the fire Mr. CHRYSLER advised that he and his wife were home and that he had fallen asleep at approximately 2:30 to 3:00a.m. He stated that the smoke alarms were activating on and off periodically throughout the day and the evening however he was not aware of any smoke or fire within the home. Mr. CHRYSLER stated that he smelled smoke sometime between 5:00 and 5:30a.m. at which time he woke and came down to the main living portion of the home. He noted heavy flames coming from the front foyer area and traveling down the hallway. He stated this fire was very large and was obviously out of control. He stated that he and his wife exited through the rear of the building and he was able to notify 911 on his cellular phone. He stated that he could not remember if the fire had been through the roof prior to the fire department's arrival however he did advise that the fire was large and was out of control and that the heaviest fire did appear to be coming from the front foyer area of the home.

**CONSENT TO SEARCH:**

Mr. CHRYSLER completed a Fire Marshal Consent to Search form. The form is attached to this complaint.

**INSURANCE:**

Mr. CHRYSLER advised that the home is insured through Encompass Insurance. He advised that the structure is covered for approximately \$2.1 million dollars and the contents are covered for approximately \$437 thousand dollars.

**MORTGAGE:**

Mr. CHRYSLER did advise that he had one outstanding mortgage on the home at the time of the fire. He stated the loan was through Merrill Lynch and was for approximately \$700 thousand dollars.

**PHOTOGRAPHS:**

<b>PAGE:</b> 3 of 5	<b>INVESTIGATED BY:</b> HOOKER, JACK, , 221, S/SGT	<b>INVESTIGATED BY:</b>	<b>REVIEWED BY:</b>
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PRINTED: 10/9/2019 08:12

**MICHIGAN DEPARTMENT OF  
STATE POLICE**

**ORIGINAL INCIDENT REPORT**

<b>ORIGINAL DATE:</b> Wed, Jul 09, 2003	<b>INCIDENT NO:</b> 004-0000501-03
<b>TIME RECEIVED:</b> 0950	<b>FILE CLASS:</b> 95006

Several photographs were taken of the scene and the film was sent to the MSP Photo Lab in Lansing for development.

**EXTERIOR EXAM:**

The exterior of the home has suffered almost complete collapse as a result of the fire. This fire was able to spread to the attic area, consuming the roof and most structural members around the exterior. It should be noted that the exterior of the home was covered with brick and that most exterior walls did remain standing however the roof has collapsed. From the exterior exam, it does appear that the least amount of fire damage is to the rear of the building or in the area of the swimming pool. Fire damage becomes progressively heavier and lower moving towards the front foyer area of the building. All indications from the exterior exam is that the heaviest fire did occur within the front foyer area. This would also be consistent with statements as provided by the homeowner.

**INTERIOR EXAM:**

The scene was excavated with the use of heavy equipment to include an overhead crane, an excavator, and a small diesel powered Bobcat. Upon excavating the scene, again, it did appear that the heaviest fire damage was coming from the front or foyer area of the building. This was noted to be the area of lowest and heaviest fire damage. All flame and fire patterns on the remaining structural members of the building did appear to be consistent with the fire having originated within this area. No specific ignition sources were located however within the front foyer area of the building.

**PROPERTY:**

SEIZED BY: J HOOKER

Prop 0001 - Desc: CARPET SAMPLE Type: Evidence

Obtained From:

Livingston County At or Near:

SOUTH END OF FIRST FLOOR HALL

Prop 0002 - Desc: FIRE DEBRIS Type: Evidence

Obtained From:

Livingston County At or Near:

BASEMENT FLOOR AREA AND FALL DOWN DEBRIS FROM SOUTH ENTRANCE

Prop 0003 - Desc: CARPET AND FIRE DEBRIS Type: Evidence

Obtained From:

Livingston County At or Near:

LOWER PORTION OF SOUTH STAIRCASE

**EVIDENCE:**

<b>PAGE:</b> 4 of 5	<b>INVESTIGATED BY:</b> HOOKER, JACK, , 221, S/SGT	<b>INVESTIGATED BY:</b>	<b>REVIEWED BY:</b>
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**MICHIGAN DEPARTMENT OF  
STATE POLICE**

ORIGINAL INCIDENT REPORT

ORIGINAL DATE: Wed, Jul 09, 2003	INCIDENT NO: 004-0000501-03
TIME RECEIVED: 0950	FILE CLASS: 95006

The above property was submitted to the Northville Crime Lab and analysed. Analysis showed no signs of an ignitable liquid within any of the submitted samples.

**ORIGIN:**

Based upon the above examination, all indications are that this fire originated within the front foyer area of the building.

**CAUSE:**

The cause of this fire will be listed as undetermined. There were multiple known electrical problems within the home that had been identified both by the homeowner and by private investigators. The cause of this fire will be listed as undetermined as an electrical malfunction cannot be eliminated at this time.

**STATUS:**

Closed

PAGE: 5 of 5	INVESTIGATED BY: HOOKER, JACK, , 221, S/SGT	INVESTIGATED BY:	REVIEWED BY:
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PRINTED: 10/9/2019 08:12

# AUTOMATED INCIDENT CAPTURE SYSTEM

## INCIDENT PROPERTY REPORT - FULL

AGENCY: MI3300400

INCIDENT NUMBER: 004-0000501-03

DATE OF REPORT: 10/09/2019 08:12 AM

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### 10 - MANUFACTURED/TRACE EVIDENCE, 13 - EVIDENCE, Not in Possession

PROPERTY STATUS: 15  
PROPERTY SYSTEM NUMBER: 0001  
CLASS TYPE: 13 - EVIDENCE  
DATE RECOVERED: 07/08/2003  
DATE STOLEN:  
DESCRIPTION: CARPET SAMPLE  
LAB NUMBER:  
RECOVERED VALUE:  
SEIZING OFFICER: J HOOKER  
BIN:

STATE: MI  
COUNTY: 47 - LIVINGSTON  
CITY/TWP: 01 - BRIGHTON TWP  
ZIP CODE:  
NUMBER:  
PREFIX:  
STREET:  
SUFFIX:  
APT/LOT:  
AT OR NEAR:  
ADDITIONAL INFORMATION: SOUTH END OF FIRST FLOOR HALL  
VALUE: 0.00

JOURNAL ENTRY: 0001

DATE/TIME: 07/11/2003/0929

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: NORTHVILLE LAB

LAB NUMBER: 0001

PROPERTY STATUS: 07 - TEMPORARILY REMOVED  
FROM AGENCY PROPERTY

ORI: MI3300400

JOURNAL ENTRY: 0002

DATE/TIME: 07/11/2003/0929

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: BIN#, CHANGED FROM :TO : 2  
NORTHVILLE LAB

LAB NUMBER: 0002

PROPERTY STATUS: 05 - CHANGED BIN

ORI: MI3300400

JOURNAL ENTRY: 0007

DATE/TIME: 10/01/2003/1112

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: AUTHORIZED BY : HOOKER,JACK

LAB NUMBER: 0007

PROPERTY STATUS: 11 - AUTHORIZED TO DESTROY

ORI: MI3300400

JOURNAL ENTRY: 0008

DATE/TIME: 10/01/2003/1112

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: DISPOSED BY : HOOKER,JACK

LAB NUMBER: 0008

PROPERTY STATUS: 15 - DESTROYED

ORI: MI3300400

10 - MANUFACTURED/TRACE EVIDENCE, 13 - EVIDENCE, Not in Possession

PROPERTY STATUS: 15

PROPERTY SYSTEM NUMBER: 0002

CLASS TYPE: 13 - EVIDENCE

DATE RECOVERED: 07/09/2003

DATE STOLEN:

DESCRIPTION: FIRE DEBRIS

LAB NUMBER:

RECOVERED VALUE:

SEIZING OFFICER: J HOOKER

BIN:

STATE: MI

COUNTY: 47 - LIVINGSTON

CITY/TWP: 01 - BRIGHTON TWP

ZIP CODE:

NUMBER:

PREFIX:

STREET:

SUFFIX:

APT/LOT:

AT OR NEAR:

ADDITIONAL INFORMATION: BASEMENT FLOOR AREA AND FALL DOWN DEBRIS FROM SOUTH ENTRANCE

VALUE: 0.00

JOURNAL ENTRY: 0003

DATE/TIME: 07/11/2003/0931

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: NORTHVILLE LAB

LAB NUMBER: 0003

PROPERTY STATUS: 07 - TEMPORARILY REMOVED  
FROM AGENCY PROPERTY

ORI: MI3300400

JOURNAL ENTRY: 0004

DATE/TIME: 07/11/2003/0931

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: BIN#, CHANGED FROM :TO : 2  
NORTHVILLE LAB

LAB NUMBER: 0004

PROPERTY STATUS: 05 - CHANGED BIN

ORI: MI3300400

JOURNAL ENTRY: 0009

DATE/TIME: 10/01/2003/1112

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: AUTHORIZED BY : HOOKER,JACK

LAB NUMBER: 0009

PROPERTY STATUS: 11 - AUTHORIZED TO DESTROY

ORI: MI3300400

JOURNAL ENTRY: 0010

DATE/TIME: 10/01/2003/1112

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: DISPOSED BY : HOOKER,JACK

LAB NUMBER: 0010

PROPERTY STATUS: 15 - DESTROYED

ORI: MI3300400

10 - MANUFACTURED/TRACE EVIDENCE, 13 - EVIDENCE, Not in Possession

PROPERTY STATUS: 15  
PROPERTY SYSTEM NUMBER: 0003  
CLASS TYPE: 13 - EVIDENCE  
DATE RECOVERED: 07/10/2003  
DATE STOLEN:  
DESCRIPTION: CARPET AND FIRE DEBRIS  
LAB NUMBER:  
RECOVERED VALUE:  
SEIZING OFFICER: J HOOKER  
BIN:

STATE: MI  
COUNTY: 47 - LIVINGSTON  
CITY/TWP: 01 - BRIGHTON TWP  
ZIP CODE:  
NUMBER:  
PREFIX:  
STREET:  
SUFFIX:  
APT/LOT:  
AT OR NEAR:  
ADDITIONAL INFORMATION: LOWER PORTION OF SOUTH STAIRCASE  
VALUE: 0.00

JOURNAL ENTRY: 0005

DATE/TIME: 07/11/2003/0932

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: NORTHVILLE LAB

LAB NUMBER: 0005

PROPERTY STATUS: 07 - TEMPORARILY REMOVED  
FROM AGENCY PROPERTY

ORI: MI3300400

JOURNAL ENTRY: 0006

DATE/TIME: 07/11/2003/0932

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: BIN#, CHANGED FROM :TO : 2  
NORTHVILLE LAB

LAB NUMBER: 0006

PROPERTY STATUS: 05 - CHANGED BIN

ORI: MI3300400

JOURNAL ENTRY: 0011

DATE/TIME: 10/01/2003/1113

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: AUTHORIZED BY : HOOKER,JACK

LAB NUMBER: 0011

PROPERTY STATUS: 11 - AUTHORIZED TO DESTROY

ORI: MI3300400

JOURNAL ENTRY: 0012

DATE/TIME: 10/01/2003/1113

USER: JACK HOOKER

BIN: 2 - NORTHVILLE LAB

ADDITIONAL INFO: DISPOSED BY : HOOKER,JACK

LAB NUMBER: 0012

PROPERTY STATUS: 15 - DESTROYED

ORI: MI3300400

Total Items : 3

Sec. 10a.

(1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reasons or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.